

1 SAM BENEVENTO, Esq.
2 Nevada Bar No. 003676
3 ROBERTSON & BENEVENTO
4 1945 East Warm Springs
5 Las Vegas, NV 89119
6 Phone: (702) 433-2000
7 Email: generaldelivery@nevlawyers.com
8 Attorney for Debtor(s)

9 **UNITED STATES BANKRUPTCY COURT**

10 **DISTRICT OF NEVADA**

11 **In Re:**) **Case No. 08-20818 LBR**
12 **MICHELLE DENIS**) **Chapter 13**
13) **Hearing Date: October 29, 2009**
14) **Hearing Time: 2:30 pm**
15)
16 **Debtor(s).**)
17)
18)
19)
20)

21 **MOTION TO APPROVE LOAN MODIFICATION**

22 Debtor, Michelle Denis, by and through attorney Sam Benevento hereby moves
23 this Court for its Order permitting the Debtor to modify the terms of the Note secured by
24 First Deed of Trust encumbering the Debtors principal residence. This motion is based
25 upon the pleadings and papers on file on file herein in the following Memorandum of
26 Points and Authorities.

27 **MEMORANDUM OF POINTS AND AUTHORITIES**

- 28
1. The Debtors principal residence is encumbered by a note ("Note") secured by First Deed of Trust in favor of America's Servicing Company ("ASC").
 2. The Note contains an adjustable interest rate which is presently at 7.125%.
 3. The Debtor has negotiated a loan modification with ASC whereby the interest rate would be fixed at 4.0%, the loan. The remaining loan term would remain 319 months and the estimated P.I.T.I. payment would be reduced from \$2,017.37 per month to \$1887.94 per month. The proposed modified terms

are set forth in the September 04, 2009 correspondence from ASC attached hereto as Exhibit "1".

4. This motion is brought pursuant to Bankruptcy code section 364, which permits this court to authorize Debtor to obtain credit during the administration of these proceedings if such credit would be in the best interest of the estate.
5. Based upon the foregoing, the Debtor requests that this Court issue its' order authorizing Debtor to modify the terms of her mortgage in accordance with Exhibit "1" attached hereto,

Dated: September 23, 2009

/s/ Sam Benevento, Esq.
Sam Benevento
Attorney for Debtor(s)

ROBERTSON & BENEVENTO

1945 East Warm Springs Road

Las Vegas, Nevada 89119

Tel: (702) 433-2000 Fax: (702) 269-8139



September 4, 2009

SAM BENEVENTO
 1945 E WARM SPRINGS RD
 HENDERSON NV 89119

NAME: MICHELLE DENIS
 CASE: 0820818
 LOAN: 1205301707

Dear Sir or Madam:

ASC previously obtained consent from your office to discuss workout options with the above referenced mortgageor(s). This letter is to advise that ASC is able to offer the mortgageors a plan that we hope is feasible and agreeable to both parties.

CURRENT TERMS	319	Proposed Modified Terms	319
Current UPB	295,997.80	Modified UPB	320,452.73
Current Maturity Date	04/01/2036	Modified Mortgage Term	04/01/2036
Current Interest Rate	7.125% (ARM)	Interest Rate	4.000% (FIX)
Current Payment Due Date	09/01/08	Post Modification Due Date	10/01/2009
Current P & I	1,757.49	Post Modification P & I	1,633.08
Current Payment Amount	2,017.37	Estimated Modified Payment amount	1,887.94
Amount Capitalizing	24,454.93	Contribution Required	4,782.51

Please review the proposal with your client. If the terms meet your approval as, in the best interest of your client, **proceed by filing a petition with the bankruptcy court to gain their consent to modify the first mortgage**. When written consent is obtained it should be forwarded to my attention. **Once received, we will generate the loan documents to you for original signatures**. ASC will then withdraw any proof of claim in this case and process, the modification as noted.

If the case has already closed, forward our office a copy of the release. If the terms are not satisfactory to you, please contact us and we will close the file with no further actions.

THE APPROVAL IS CONTINGENT ON COURT CONSENT OR RELEASE OF THE CASE.

With regards to a chapter 7 bankruptcy, due to the variance in requirements from district to district, ASC does not have a standard reaffirmation agreement to extend. If your client intends to reaffirm, please provide us with your district specific agreement. We will complete the required entries and return to your office for the required undue hardship analysis and filing with the respective court.

Please call me at the number listed below, should you have any questions.
I thank you for your time and support in this case.

SINCERELY,

DONALD JOHNSON

Cc: MICHELLE DENIS